

Appl. No.: 09/816,652

Amendment Dated: 3/1/2005

Reply to OA of 11/1/2004

**REMARKS**

This amendment is responsive to the Action dated November 1<sup>st</sup>, 2004. Filed herewith is a request for a one (1) month extension of time, thereby extending the effective period for reply to March 1, 2005.

In the Action, claims 1-8, 13-20, 25-32 and 37-41 were rejected, while claims 9-12, 21-24 and 33-36 were merely objected to as being dependent upon rejected base claims. Applicant would like to thank the Examiner for the identification of patentable subject matter.

With this response, claims 1, 13, 25 and 37 have been amended. Support for the amendments can be found in the original specification, claims and/or drawings. In this regard, no new matter has been introduced. Accordingly, claims 1-41, as selectively amended, remain pending.

Applicant believes the foregoing amendments and following remarks to be fully-responsive to the outstanding action. Upon entry of this response, reconsideration of the pending application is respectfully requested.

**§102(e) Rejection of Claims 1-6, 8, 13-18, 20, 25-30, 32 and 37-41**

In paragraphs 1 and 2 of the Action, claims 1-6, 8, 13-18, 20, 25-30, 32 and 37-41 were rejected as being anticipated by a patent issued to Best, et al. (USP 6,738,363) pursuant to 35 USC §102(e).

Without adopting or accepting the characterization of the Best reference provided in the Action, or the conclusion that the Best reference anticipates the originally presented claims, Applicant has taken this opportunity to selectively amend claims 1, 13, 25 and 37 to further clarify the intended scope of the claimed invention.

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In view of the foregoing amendments, Applicant respectfully requests that the §102(e) rejection of claims 1, 13, 25 and 37 be withdrawn as the Best reference fails to anticipate or suggest at least the element of scheduling time slots and frequency blocks within a communication channel.

Applicant notes that claims 2-6, 8, 14-18, 20, 26-30, 32 and 38-41 each depend from patentable base claims 1, 13, 25 or 37, respectively, and are likewise patentable over the Best reference by virtue of at least such dependency. Accordingly, Applicant respectfully requests that the §102(e) rejection of such claims be withdrawn.

**§103(a) Rejection of Claims 7, 19 and 31**

In paragraphs 3 and 4 of the Action, claims 7, 19 and 31 are rejected as being unpatentable over the Best reference, pursuant to 35 USC §103(a). In response, Applicant traverses such rejection.

In rejecting the claim, the Action acknowledges that the Best reference fails to disclose or suggest a first service class comprising subscriber units requiring a guaranteed real-time data rate. To overcome this limitation of the reference, the Action suggests that Best discloses a real-time variable bit rate, where “real-time VBR initially allocates bandwidth to a call but the rate is allowed to increase *if bandwidth is available*” [emphasis added], suggesting that this real-time VBR suggests the claimed limitation of the first service class providing a guaranteed real-time data rate.

At the onset, Applicant respectfully requests that the Examiner particularly point out a citation within the cited reference relied upon to make the rejection of such claims. Applicant simply wants to make certain that we are discussing the same language.

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Applicant respectfully submits that the allocation of a variable data rate channel is characteristic of the limitations commonly associated with the prior art, which the claimed invention seeks to overcome. In particular, to support certain applications on wireless handsets that have become increasingly popular after the filing of the Best reference, e.g., audio/video application, a guaranteed bandwidth and data-rate is required to provide a meaningful user experience. Thus, this conventional VBR approach may, in many cases be insufficient.

Thus, in contrast to the characterization in the Action, the teaching of VBR actually teaches away from that which is claimed in rejected claims 7, 19 and 31, namely, the idea of a service class requiring allocation of guaranteed real-time data rate channel. In this regard, Applicant respectfully submits that one skilled in the art would not, necessarily find motivation within the Best reference to extend the VBR as suggested by the Action. Accordingly, Applicant respectfully requests that the §103(a) rejection of claim 7, 19 and 31 be withdrawn.

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**CONCLUSION**

Applicant respectfully submits that claims 1-41, as amended, are in condition for allowance and such action is earnestly solicited. *The Examiner is respectfully requested to contact the undersigned by telephone if it is believed that such contact would further the examination of the present application.*

Please charge any shortages and credit any overcharges to our Deposit Account number 50-0221.

Respectfully submitted,  
MANISH AIRY

Date: March 1, 2005

by:



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